

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
(BROOKLYN)**

IN RE: EXACTECH POLYETHYLENE
ORTHOPEDIC PRODUCTS LIABILITY
LITIGATION

) MDL No. 3044 (NGG) (MMH)
)
)
) Case No.: 1:22-md-3044-NGG-MMH
)
) District Judge Nicholas G. Garaufis
) Magistrate Judge Marcia M. Henry
)

THIS DOCUMENT RELATES TO:
ALL CASES AGAINST TPG DEFENDANTS

**DEFENDANTS TPG INC.; OSTEON HOLDINGS, INC.; OSTEON MERGER SUB,
INC.; AND OSTEON INTERMEDIATE HOLDINGS II, INC.’S
NOTICE OF MOTION AND MOTION TO DISMISS**

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Defendants TPG Inc.; Osteon Holdings, Inc.; Osteon Merger Sub, Inc.; and Osteon Intermediate Holdings II, Inc. (collectively, “TPG”) hereby move to dismiss Plaintiffs’ claims against TPG, all of which are pursuant to indirect liability theories, including corporate veil-piercing and successor liability theories. Plaintiffs purport to bring the following Counts against TPG pursuant to these indirect liability theories: Count I (Strict Liability – Manufacturing Defect); Count II (Strict Liability – Design Defect); Count III (Strict Liability – Defect Due to Inadequate Warnings or Instructions); Count IV (Negligence); Count V (Breach of Express Warranty); Count VI (Breach of Implied Warranty); Count VII (Negligent Misrepresentation); Count VIII (Fraud); Count IX (Fraudulent Concealment); Count X (Punitive Damages); Count XI (Loss of Consortium).

TPG is entitled to dismissal for the reasons set forth in its Memorandum of Law, provided contemporaneously with this Motion.

Dated: June 9, 2023

Respectfully submitted,

By: /s/ Jay P. Lefkowitz

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PROOF OF SERVICE

I hereby certify that on June 9, 2023, I caused a copy of Defendants TPG Inc., Osteon Holdings, Inc., Osteon Merger Sub, Inc., and Osteon Intermediate Holdings II, Inc.'s Notice of Motion and Motion to Dismiss to be served via electronic mail on the individuals designated as Plaintiffs' Co-Lead Counsel and Liaison Counsel (ECF Nos. 46, 269).

Dated: June 9, 2023

/s/ Jay P. Lefkowitz

Jay P. Lefkowitz